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%07.07.2009

Present: Mr. Satyam Sethi, Advocate for the petitioner.
Ms. Prem Lata Bansal, Advocate with Mr. Paras Chaudhry,
Advocate for the respondent.

+W.P.(C)No.734/2009 & CM1599/2009 & 1810/2009
W.P.(C) No.735/2009 & CM1601/2009 & 1808/2009

* The respondent i.e. the Commissioner of Income Tax Delhi (Central)-1 has issued notice dated 15th January, 2009 requiring the petitioner to immediately pay the amount mentioned therein, which are the demands raised against the petitioner in respect of assessment year 1989-90 to 2004-05. As per this notice, the assessment orders were made in respect of the aforesaid assessment years and tax liability ascertained alongwith the penalty and interest.

In this writ petition, challenging the aforesaid notice, submission of the petitioner is that against these assessment orders petitioner had filed appeals. It is stated that the appeals in respect of various assessment years have already been decided in favour of the petitioner but the 'appeal effect orders' have not been passed. Learned counsel for the petitioner states that even in respect of two assessment years for which appeals are pending, the same are also likely to be decided in favour of the petitioner as the issue involved in those appeals is the same as in other

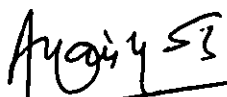


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appeals also decided in favour of the petitioner. Since, it could not be disputed that most of the appeals have been decided in favour of the petitioner and 'appeal effect orders' have yet to be passed we are of the opinion that it was not appropriate for the respondent to issue the said notice requiring the petitioner to pay the aforesaid amount. As the appeals have been decided 'appeal effect orders' of the said appeals have to be determined and unless 'appeal effect orders' are passed and exact tax liability is determined on that basis, the petitioner cannot be called upon to pay the amount as per the assessment orders which are no longer in existence and have been set aside/merged in the orders of the appellate authority.

In that view of the matter we direct the respondent to pass 'appeal effect orders' and based thereupon only, if tax liability is still due, notice for the demand can be issued. The 'appeal effect orders' shall be passed within two months.

In these circumstances, the rule is made absolute, notice dated 15th January, 2009 is set aside and writ petition is disposed of in the aforesaid terms.


A.K. SIKRI, J


VALMIKI J. MEHTA, J

July 07, 2009/Ne